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4955 7590 09/24/2009 WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP BRADFORD GREEN, BUILDING 5 755 MAIN STREET, P O BOX 224 MONROE, CT 06468				
EXAMINER				
BETTT, JACOB F				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/570,646

Applicant(s)

HAKALA ET AL.

Examiner

Jacob F. Bétit

Art Unit

2169

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 6/12/2009
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Remarks

1. In response to communications filed on 12 June 2009, claims 1, 15, 27, and 28 have been amended and claim 39 has been added per the applicant's request. Claims 1-38 are presently pending in the application.
2. It is noted that the "means for displaying the created name suggestion list on a user interface is being interpreted as including the display. This is due to the specification on page 13, lines 22-24 which states "the generated name suggestions are displayed to the user on the display of the user interface". If the applicant feels this interpretation is in error, the applicant is invited to comment on the record.

Specification

3. The applicant's addition of --computer readable medium-- to the specification and also that the specification gives one example of a computer readable medium being a "memory unit 204 for storing data is noted. This amendment coupled with the fact that the applicant has amended claim 27 to read "computer readable storage medium" insinuates that the applicant is claiming only statutory embodiments of a computer readable medium, and is not trying to claim nonstatutory embodiments such as signals or transmission media. If the applicant disagrees with this interpretation, the applicant is invited to comment on the record.

Claim Objections

4. Claims 1-39 are objected to because of the following informalities:

Claims 1-39 are objected to because the words "priorized", "priorize", "priorizing" found in the independent claims are not the correct spelling of an English word. It is believed that it was meant --prioritized--, --prioritize--, and --prioritizing--, respectively.

The dependent claims are objected to for depending from the rejected independent claims.

Claim 27 is objected to because the limitation "setting the first name suggestion in the name suggestion list as the default name for the picture file in the user interface" is recited twice. The second recitation of this limitation does not appear to have any effect in the claim except to confuse the claims meaning. For the purpose of examining, it is assumed that once instance is removed.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 7-19, 21-32, and 34-38 are rejected under 35 U.S.C. 103(a) as being anticipated by Abram et al. (U.S. patent No. 6,462,778 B1) in view of Fukahori (U.S. patent No. 6,469,698 B2).

As to claim 1, Abram et al. teaches a method comprising:

among the data available in the mobile station, there is searched a given feature associated to picture produced by a camera of the mobile station (see column 4, lines 12-30, and see column 6, lines 13-56),

of a found feature, there is created a name suggestion that is added in the name suggestion list containing name suggestions for the picture file in order to create said name suggestion list (see column 4, lines 30-58),

the created name suggestion list is displayed in a user interface, where the picture file name is editable (see column 4, lines 41-58 and see column 6, lines 38-56).

Abram et al. does not distinctly disclose:

a) the name suggestions in the generated picture file name suggestion list are prioritized according to priority rules,

b) the name suggestions are set so that one with the highest priority is placed first in the name suggestion list and

c) the first name suggestion in the name suggestion list is set as the default name for the picture file in the user interface.

However, Fukahori discloses a) see column 9, lines 31-45; b) see column 10, lines 6-24; and c) see column 10, line 58 through column 11, line 25. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Abram et al. to include the teachings of Fukahori because these teachings would give an order to multiple possible choices to be selected.

As to claim 2, Abram et al. teaches wherein in the mobile station, there is searched date and time information associated to a moment of shooting, a name suggestion is created based on said time information, and the name suggestion is added in the picture file name suggestion list (see column 4, lines 41-58).

As to claim 3, Abram et al. teaches wherein in the mobile station, there is searched a calendar event that is at a given accuracy associated to the moment of shooting, and in case such a calendar event is found, said calendar event is added as a name suggestion in the picture file name suggestion list (see column 4, lines 31-40).

As to claim 4, Abram et al. teaches wherein in the mobile station, there is searched a file name of a previously saved picture file, and it is added as a name suggestion in the picture file name suggestion list (see column 4, lines 45-47).

As to claim 5, Abram et al. teaches wherein in the mobile station operational profile and settings, there is searched data associated to the picture according to certain criteria, and said data is used for creating a name suggestion in the picture file name suggestion list (see column 4, lines 13-30).

As to claim 7, Abram et al. teaches wherein the location information of the mobile station is searched, and based on said location information, there is created a name suggestion to be

added in the picture file name suggestion list (see column 6, lines 13-56).

As to claim 8, Abram et al. teaches wherein in the mobile station, there is searched a name suggestion defined by a user, and said found name suggestion defined by the user is added in the picture file name suggestion list (see column 4, lines 13-30).

As to claim 9, Abram et al. does not distinctly disclose wherein the name suggestions contained in the created picture file name suggestion list are arranged in an order of priority according to certain predetermined priority rules, so that a name suggestion with a highest priority is arranged first in the name suggestion list, and that a first name suggestion of the name suggestion list is set as a default name of the picture file in the user interface (see Fukahori, column 9, lines 4-43).

As to claim 10, Abram et al. teaches wherein in the user interface the picture file name is editable, and the picture file name is chosen among the displayed name suggestions by pointing (see column 4, lines 12-58).

As to claim 11, Abram et al. teaches wherein in the user interface the picture file name is editable, and the picture file name is created by editing the picture file name suggestion (see column 4, lines 12-30).

As to claim 12, Abram et al. does not distinctly disclose wherein the method is performed in the mobile station before producing the picture by the camera of the mobile station.

Fukahori teaches this, see column 8, line 55 through column 9, line 3. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Abram et al. to include the teachings of Fukahori because these teachings would allow the user to select a title once for one series of pictures removing the redundant selection ever time a new picture is taken.

As to claim 13, Abram et al. teaches wherein the method is performed immediately after the picture is produced by the camera of the mobile station (see column 4, lines 3-11).

As to claim 14, Abram et al. teaches wherein the method is performed based on a previously saved picture that is already stored in a memory of the mobile station and contained in a picture file (see column 4, lines 3-11).

As to claim 15, Abram et al. teaches apparatus, comprising
a microprocessor of a control unit configured to search among data available in a mobile station a feature associated to a picture produced by a camera of the mobile station, (see column 4, lines 12-30 and column 6, lines 13-56),

to create a name suggestion based on said searched feature (see column 4, lines 30-58),
to add the created name suggestion in a name suggestion list for the picture file and
means for creating said name suggestion list (see column 4, lines 30-58), and

a display configured to display the created name suggestion list in a user interface (see column 4, lines 41-58 and see column 6, lines 38-56).

Abram et al. does not distinctly disclose:

a) to prioritize the name suggestions in the generated picture file name suggestion list according to priority rules;

b) to set the name suggestions with the highest priority to first in the name suggestion list and

c) to set the first name suggestion in the name suggestion list as the default name for the picture file in the user interface.

However, Fukahori discloses a) see column 9, lines 31-45; b) see column 10, lines 6-24; and c) see column 10, line 58 through column 11, line 25. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Abram et al. to include the teachings of Fukahori because these teachings would give an order to multiple possible choices to be selected.

As to claim 16, the applicant is referred to the citations for claim 2 above.

As to claim 17, the applicant is referred to the citations for claim 3 above.

As to claim 18, the applicant is referred to the citations for claim 4 above.

As to claim 19, the applicant is referred to the citations for claim 5 above.

As to claim 21, the applicant is referred to the citations for claim 7 above.

As to claim 22, the applicant is referred to the citations for claim 8 above.

As to claim 23, the applicant is referred to the citations for claim 9 above.

As to claim 24, the applicant is referred to the citations for claim 10 above.

As to claim 25, the applicant is referred to the citations for claim 11 above.

As to claim 26, Abram et al. teaches wherein said means are software means (see column 2, lines 44-54).

As to claim 27, Abram et al. teaches a computer readable medium having instructions for naming a picture file recording a picture taken by a camera of a mobile station, said instructions for:

searching a given feature associated to the picture from the data available in the mobile station (see column 4, lines 12-30 and column 6, lines 13-56),

adding the searched feature in the picture file name suggestion list and for creating said name suggestion list (see column 4, lines 30-58),

displaying the name suggestion list in the user interface (see column 4, lines 30-58).

Abram et al. does not distinctly disclose a) prioritizing the name suggestions in the generated picture file name suggestion list according to priority rules,

b) setting the name suggestion with the highest priority to first in the name suggestion list and

c) setting the first name suggestion in the name suggestion list as the default name for the picture file in the user interface.

However, Fukahori discloses a) see column 9, lines 31-45; b) see column 10, lines 6-24; and c) see column 10, line 58 through column 11, line 25. Therefore, it would have been

obvious to one having ordinary skill in the art at the time the invention was made to have modified Abram et al. to include the teachings of Fukahori because these teachings would give an order to multiple possible choices to be selected.

Alternatively, these limitations appear to be a recitation of an intended use of the instructions and not operations that the instructions perform. “Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.” See MPEP §2106 II. C.

As to claim 28, Abram et al. teaches apparatus, comprising a control unit, which control unit is arranged to

search among data available in a mobile station a feature associated to the picture produced by a camera of the mobile station (column 4, lines 12-30 and column 6, lines 13-56),
create a name suggestion based on said searched feature (see column 4, lines 30-58),
add a created name suggestion in the name suggestion list of the picture file and create said name suggestion list (see column 4, lines 30-58, alternatively, all of the above limitations appear to be a recitation of an intended use of the instructions and not operations that the instructions perform. “Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.” See MPEP §2106 II. C.)

display the name suggestion list in a user interface (see column 4, lines 41-58 and see column 6, lines 38-56).

Abram et al. does not distinctly disclose:

a) prioritizing the name suggestions in the generated picture file name suggestion list according do priority rules,

b) set the name suggestions with the highest priority to the first in the name suggestion list and

c) set the first name suggestion in the name suggestion list as the default name for the picture file in the user interface.

However, Fukahori discloses a) see column 9, lines 31-45; b) see column 10, lines 6-24; and c) see column 10, line 58 through column 11, line 25. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Abram et al. to include the teachings of Fukahori because these teachings would give an order to multiple possible choices to be selected.

As to claim 29, the applicant is referred to the citations for claim 2 above.

As to claim 30, the applicant is referred to the citations for claim 3 above.

As to claim 31, the applicant is referred to the citations for claim 4 above.

As to claim 32, the applicant is referred to the citations for claim 5 above.

As to claim 34, the applicant is referred to the citations for claim 7 above.

As to claim 35, the applicant is referred to the citations for claim 8 above.

As to claim 36, the applicant is referred to the citations for claim 9 above.

As to claim 37, the applicant is referred to the citations for claim 10 above.

As to claim 38, the applicant is referred to the citations for claim 11 above.

As to claim 39, Abram et al. teaches an apparatus, comprising:

means for searching among data available in a mobile station a feature associated to a picture produced by a camera of the mobile station (see column 4, lines 12-30 and see column 6, lines 13-56),

creating a name suggestion based on said searched feature (see column 4, lines 41-58 and see column 6, lines 38-56),

adding the created name suggestion in a name suggestion list for the picture file and means for creating said name suggestion list (see column 4, lines 22-55), and

means for displaying the created name suggestion list in a user interface.

Abram et al. does not distinctly disclose:

a) prioritizing the name suggestions in the generated picture file name suggestion list according to priority rules,

b) setting the name suggestions with the highest priority to first in the name suggestion list and

c) setting the first name suggestion in the name suggestion list as the default name for the picture file in the user interface.

However, Fukahori discloses a) see column 9, lines 31-45; b) see column 10, lines 6-24; and c) see column 10, line 58 through column 11, line 25. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Abram et al. to include the teachings of Fukahori because these teachings would give an order to multiple possible choices to be selected.

7. Claims 6, 20, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abram et al. in view of Matsumura et al. (U.S. patent No. 6,222,583 B1).

As to claim 6, Abram et al. does not distinctly disclose wherein the picture is processed by an image recognition algorithm of the mobile station in order to produce a picture file name suggestion by means of the features recognized in the picture, and that the produced name suggestion is added in the picture file name suggestion list.

Matsumura et al. teaches this, see column 3, lines 16-27. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Abram et al. to include the teachings of Matsumura et al. because these teachings would identify objects within the images taken that can be individually accredited to the image.

As to claim 20, the applicant is referred to the citations for claim 6 above.

As to claim 33, the applicant is referred to the citations for claim 6 above.

Response to Arguments

8. Applicant's arguments filed 20 July 2009 have been fully considered but they are not persuasive.

In response to the applicant's arguments directed towards the objections made to claims 15-38, the arguments are at least partially persuasive. The applicants amendments to claim 15 in combination with the fact that the language states that the microprocessor and display are "configured to" perform actions makes the examiners interpretation for claims 15-26 in error. As the applicant states this "language does not constitute a recitation of an intended use of the

control unit but rather inherent actions that the control unit actively performs when it is activated.”

However, claim 27 states “instructions for” not --instructions which when executed by a processor cause the processor to perform actions comprising--. In this case, the language is still deemed to be intended use because as the applicant states “language that would be objectionable as an intended use would be if the applicants were claiming that the apparatus were ‘for use as a paperweight’ or ‘for use as a fashion accessory’”. In this case the instructions are “for searching” and “for adding” and “for displaying”. They are not --configured to-- search, add, or display. Therefore, while the objection has been withdrawn, this is because there is nothing inherently wrong with optionally reciting limitations and not because these limitations are believed not to be optionally recited. The limitations of claims 28-38 have similar issues with optionally recited limitations because the microprocessor and control unit are “arranged to” and not “configured to”.

In response to the applicant’s arguments that the combination of references does not disclose “a first name suggestion of the name suggestion list is set as a default name of the picture file in the user interface”, the arguments have been considered, but are not deemed persuasive. While Fukahori does not directly state that the first name is the default name, it is clear from Fukahori’s disclosure that the first name is the default or first chosen name. Column 10, lines 20-24 states “corresponding to the minimum resolution hierarchal level is first selected, the display part 121a blinks and “Patent Office” which corresponds to a place name selected from the hierarchal levels of the display part 121 is displayed in the selected place-name display

part. It is clear from this disclosure that "Patent Office" which is at the top of the list is the current and default selected name for the file. Column 10, line 58 through column 11, line 5 disclose what happens when the user chooses to go from this default selected name down the list to the third item "Ohta-ku". It is clear from this disclosure that a user must go from the initially selected minimum resolution default item down the list to other items if they want names different than that which is selected by default.

In response to the applicant's arguments that neither of the references teach "added in a name suggestion list containing name suggestions for the picture file", the arguments have been fully considered, but are not deemed persuasive. Abram teaches searching a terminal for a particular name that is appropriate for a file. When the user selects "Holidays", a found feature, a list of items in a sub-menu is displayed. This submenus is added to, i.e., in addition to the name suggestions for the picture file already displayed. Further the user is allowed to select any number of items on the list of items so that that particular item is added to the name of the file. These items added together are added to the list of things the file can be named.

In response to the applicant's arguments that the cited references "fail to specify any apparatus for searching among data available in a mobile station ... but instead represent just generally "a digital device" and refer to "cameras" and "camcorders", the arguments have been considered, but are not deemed persuasive. A camera is a mobile station. The smart cameras disclosed in Abram et al. and Fukahori are performing the actions disclosed. It is not clear from

the applicant's comments why the applicant feels that a camera or camcorder could not be considered a mobile station.

In response to the applicant's fourth comment, it is noted that while it is the applicant's prerogative to remove limitations from the claims, it is not required that the applicant do so because the "feature was not in the main claims of the PCT-application".

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob F. B  tit whose telephone number is (571)272-4075. The examiner can normally be reached on Monday through Friday 9:30 am to 5:30 pm.

Art Unit: 2169

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Mahmoudi can be reached on (571) 272-4078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Tony Mahmoudi/
Supervisory Patent Examiner, Art Unit
2169

jfb
4 Feb 2009